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10/751,243	01/02/2004	Vladimir Marin	COS-971	3854

7590 04/30/2007  
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EXAMINER
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LU, C CAIXIA

ART UNIT	PAPER NUMBER
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1713

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



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GROUP 1700

**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/751,243  
Filing Date: January 02, 2004  
Appellant(s): MARIN ET AL.

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Tenley Kruger  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed January 30, 2007 appealing from the Office action mailed August 30, 2007.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is incorrect.

The amendment after final rejection filed on October 30, 2006 has not been entered.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct except that paragraphs 9 and 10 are disclosed on pages 6-7 of the Specification rather than the indicated pages 4-5.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**GROUND OF REJECTION NOT ON REVIEW**

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The following grounds of rejection have not been withdrawn by the examiner, but they are not under review on appeal because they have not been presented for review in the appellant's brief. The rejections of claims 1, 3 and 11 under 35 U.S.C. 102(b) as being anticipated by Kaufmann et al. (US 5,770,752) and Schertl et al. (US 5,668,230) in dependently.

**(7) Claims Appendix**

The copy of the appealed claims contained in **Appendix A** to the brief is correct.

**(8) Evidence Relied Upon**

5,770,752	Kaufmann et al.	6-1988
5,668,230	Schertl et al.	9-1997

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claim 10 is rejected under 35 U.S.C. 102(b) as being anticipated by Kaufmann et al. (US 5,770,752) and Schertl et al. (US 5,668,230) in dependently; and Claim 12 is rejected under 35 U.S.C. 102(b) as being anticipated by Kaufmann et al. (US 5,770,752).

1,1,2,2-tetraethyldisilanediy[2-methylindenyl(4-phenylfluorenyl)]zirconium dichloride of Kaufmann (col. 9, lines 16-17 and col. 13, lines 48-49) meets the limitation of the instant claims 10 and 12.

1,2-bis(4-benzyl-fluorenyl)ethane  $\text{ZrCl}_2$  of Schertl (col. 6, Table 1) meets the limitation of the instant claim 10.

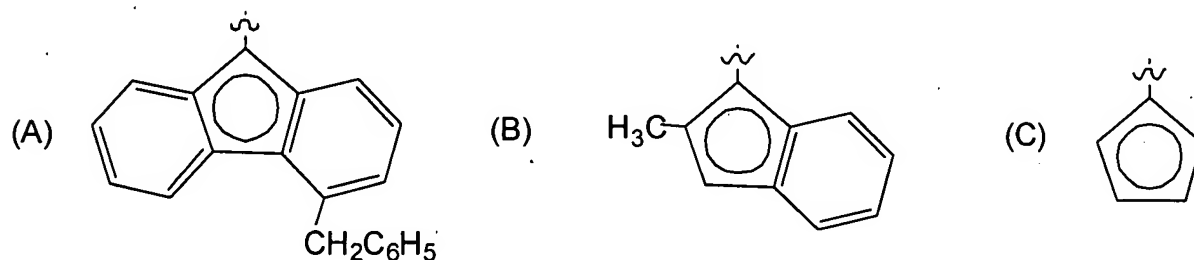
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**(10) Response to Argument**

The rejection of claim 12 under 35 U.S.C. 102(b) over Schertl et al. (US 5,668,230) is withdrawn in view of appellants arguments since benzyl group is not a substituted phenyl group.

Appellants argue that both fluorenyl and indenyl groups are not substituted cyclopentadienyl groups.

4-benzyl-fluorenyl, 2-methylindenyl and cyclopentadienyl groups are represented by structures (A), (B) and (C) respectively as shown below:



Apparently, both structures (A) and (B) contain cyclopentadienyl group (C) and the rest of structures attached to the cyclopentadienyl groups in (A) and (B) are considered as the substituents. Therefore, the rejections are deemed to be proper and thus maintained.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

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For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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Primary Examiner



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